

MINUTES

TENNESSEE BOARD OF MEDICAL EXAMINERS

September 20 and 21, 2011

The meeting was called to order at 8:37 a.m. at the Health Related Boards' Iris Room, 227 French Landing, Ground Floor, Heritage Place Metrocenter, Nashville, Tennessee 37243 by President Dr. Mitchell Mutter. Other members present were: Dr. Barrett Rosen, Dr. Michael Baron, Dr. Neal Beckford, Dr. Subhi Ali, Dr. Charles White, Dr. Dennis Higdon, Dr. Michael Zanolli, Dr. Keith Lovelady, Ms. Regine Webster, Ms. Nina Yeiser, and Ms. Pat Eller.

Staff present included: Rosemarie Otto, Executive Director, Larry Arnold, MD, Medical Director, LaTonya Shelton, Board Administrator, Marsha Arnold, Unit Manager and Andrea Huddleston, Deputy General Counsel.

Minutes

The Board reviewed the minutes from the July 19 and 20, 2011 meeting. Dr. White made a motion to approve the minutes and Dr. Ali seconded the motion. The motion passed.

Ratification of Licenses

New, reinstated, failed to renew and voluntary retired licenses for Medical Doctors, Medical X-Ray Operators, Radiologist Assistants, Genetic Counselors, Physician Assistants and Acupuncture Committee were reviewed. (See attached list). A motion was made to approve the action on the licenses and seconded the motion. The motion passed.

The Board of Medical Examiners ratified and approved the actions taken by the Acupuncture Committee regarding reducing their renewal fees.

Consideration of Applications

Nancy M. Amini, MD- Dr. Amini is applying for a license to practice medicine in Tennessee. Dr. Amini has attempted Step 3 four times and she is outside the Board's one point rule. . Dr. White made a motion to grant Dr. Amini a medical license and Dr. Beckford seconded the motion. The motion passed.

Fran Angelos, MDX— Ms. Angelos is applying for a license to practice as a Medical X-ray Operator in Tennessee. Ms. Angelos answered "NO" to question 7 on her application when asked "have you ever been convicted of a felony or a misdemeanor other than a minor traffic violation". There was documentation developed during the application process which indicated that Ms. Angelos had a 2007 conviction for DUI and violation of the state's open container law. The Board's Consultant recommended withholding the issuance of Ms. Angelos' license until she submitted a truthful application to the Board's administrative office. Dr. White made a motion to accept the recommendation to grant Ms. Angelos a license. Dr. Beckford seconded the motion. The motion passed.

Elema Antonelli, MD- Dr. Antonelli is applying for an administrative license in Tennessee because she plans to work in peer review. Dr. Antonelli's resume attached to her licensure application showed that she has been in a solo practice in occupational medicine from October

2001 until the present time. Dr. Antonelli also indicates on her resume that she has been the Medical Director of Integrated Services from January 21, 2011 until the present. The Board tabled Dr. Antonelli's application interview until the November 15, 2011 meeting.

Timothy Ashburn, MD- Dr. Ashburn's medical license was revoked in June 2004 for substance abuse. Dr. Mutter and Ms. Eller recused themselves. Dr. Ashburn subsequently applied for a new license and was granted an administrative license in November 2010. At the time of issuance of the administrative license, Dr. Ashburn was asked to do a mini residency which he successfully completed. Dr. Ashburn has been successfully treated for substance abuse and currently enjoys the support of the Tennessee Medical Foundation. The Boards' Consultant recommended that the Board grant Dr. Ashburn a full unrestricted license to practice medicine with the lifetime advocacy of the Tennessee Medical Foundation. Dr. Ali made a motion to accept the consultants' recommendations and Dr. Rosen seconded the motion. The motion passed.

Jorge Benitez, Jr., MD, Dr. Benitez is applying for a license to practice medicine in Tennessee.

Dr. Benitez was training at the University of Florida, where he was placed on academic probation with a remediation plan and was required to repeat the first year of his radiology residency commencing July 1, 2010. According to the program, Dr. Benitez did not meet the requirements of his probation and remediation plan and was dismissed from the Diagnostic Radiology Residency Program on April 19, 2011. After consideration of Dr. Benitez's application, the board voted to table his application until the next meeting and asked that Dr. Benitez appear and provide documentation relative to his current status as a resident at Meharry.

Joshua Bledsoe, MDX- Mr. Bledsoe is applying for a license to practice as a medical x-ray operator in Tennessee. Mr. Bledsoe was not present and the Board deferred action on the application until the next meeting.

Joseph J. Brawka, MD-Dr.Brawka is applying for a license to practice medicine in Tennessee. Dr. Brawka has been treated for alcohol dependency after voluntarily seeking treatment. According to Dr. Roland Gray, Dr. Brawka is in compliance with the Illinois Physician Health Program. The Boards' Consultant recommended that the Board grant Dr. Brawka a license contingent upon receipt of a contract with the Tennessee Medical Foundation for a period of time not to exceed five years. Dr. Lovelady made a motion to accept the recommendation and to also have quarterly reports sent to the board's consultant. Dr. White seconded the motion.

Robert Circillo, Jr., MD- Dr. Circillo was present and represented by Ben Mezer. Dr. Circillo is applying for a license to practice medicine in Tennessee. Dr. Circillo participated in a radiology training program in Wisconsin in 1998. Dr. Circillo was offered a fellowship at the University of Florida's College of Medicine that began July 1, 1999. As a condition, Dr. Circillo was required to obtain a Florida medical license. During his licensure process, it was alleged that certain signed letter(s) of recommendation on Rhode Island Hospital letter head were forged. Dr. Circillo denied the allegations, but agreed to withdraw his application and never re-apply for licensure in the state of Florida. Dr. Circillo returned to Wisconsin and in April 1999 resigned from the residency program. When Dr. Circillo applied for licensure in North Carolina (2004), he was reprimanded for failing to disclose the action from the Florida Board of Medicine. Mr. Ben Mezer spoke on behalf of Dr. Circillo explaining the alleged forgery. Dr. Lovelady made a motion to grant D. Circillo a license and Dr. White seconded the motion. The motion passed.

Greta Combs, MD-Dr. Combs is applying for a license to practice medicine in Tennessee. Dr. Combs has a previous board action in Kentucky. Dr. Combs' was restricted from controlled substance privileges by agreement on February 6, 2001 for self-prescribing. On June 23, 2003,

Dr. Combs surrendered her medical license in Kentucky in lieu of revocation for violation of the 2001 board order. Dr. Combs has a history of substance abuse. Dr. Combs has not practiced medicine since at least March 2002. Dr. Combs is currently on disability. Dr. Higdon suggested that Dr. Combs resolve her issues in Kentucky because that will hinder her receiving a license in Tennessee. Dr. Combs withdrew her application.

William Croley, MD- Dr. Croley is applying for a license to practice medicine in Tennessee. Dr. Croley attended St. Matthew's University, Belize, Grace University, Saint Kitts & Nevis and American University of the Caribbean, Maarten. Dr. Croley is an international medical school graduate whose curriculum does not meet or exceed what is required for endorsement by the LCME. Dr. Croley did take the MCATs for admission to the American University of the Caribbean. Dr. Croley passed all three Steps of the USMLE on the first attempt and is board certified in Anesthesiology. Ms. Webster made a motion to grant Dr. Croley a license on the basis that he is board certified and passed all three steps of the USMLE on the first attempt. Dr. Lovelady seconded the motion. The motion passed.

Roberto R. Gonzalez, MD-Dr. Gonzalez is applying for a license to practice medicine in Tennessee. Dr. Gonzalez attended Technology Institute of Santo Domingo, Dominican Republic and passed all three steps of the USMLE on the first attempt. Dr. Gonzalez indicated on his application that he was board certified but Dr. Gonzalez, who is board eligible; stated to the Board that, while he signed the application, someone else actually filled it out. Dr. Ali made a motion to grant Dr. Gonzalez a license and Dr. Rosen seconded the motion. Dr. Ali rescinded his motion and made a motion to table the application until the next meeting giving Dr. Gonzalez time to correct his application and re-submit it to the administrative office. Dr. Rosen seconded the motion. The motion passed.

Eric Harris, MD –Dr. Harris is applying for a license to practice medicine in Tennessee. Dr. Zanolli recused himself. Dr. Harris was present but without legal counsel. Dr. Harris has an October 2009 conviction for driving under the influence. Additionally, Dr. Harris was admitted to Bradford's Extended Care Program for health professional in March 2010 and successfully completed treatment for alcohol dependence. Dr. Harris was discharged from that facility on May 14, 2010 with a recommendation to return to practice. Dr. Gray spoke on behalf of Dr. Harris and informed the Board that he is in compliance with the Washington Board. The Board's consultant recommended that the Board grant Dr. Harris a license contingent upon receipt in the Board's administrative office of a contract with the Tennessee Medical Foundation for five (5) years. Dr. Baron made a motion to accept the recommendations and Dr. White seconded the motion. The motion passed.

Fred Hosler, MD- Dr. Holser was present but he had an emergency and had to leave before his interview. The Board deferred action on the application until the next meeting.

Randolph Hunter, MD- Dr. Hunter is applying for a license to practice medicine in Tennessee. Dr. Hunter has a West Virginia license which has a non-disciplinary suspension pending CMEs. Dr. Hunter voluntarily surrendered his hospital privileges while under, or to avoid, and investigation relating to professional competence on March 3, 2000. Then, on January 8, 2009, his nephrectomy privileges were placed on summary suspension pending review of an unexpected death in the operating room. Dr. Hunter's final disposition is still pending. Dr. Hunter withdrew his application.

Mukesh Jalota, MD- Dr. Jalota is applying for a license to practice medicine in Tennessee. Dr. Jalota's medical license was disciplined in Maryland on February 26, 2003 with probation for six months and Washington DC on December 22, 2004 had reprimanded and placed his license on probation because of the action in Maryland. Virginia finally took action on July 8, 2009 based on

the actions of Maryland and DC boards of medicine. The actions were based on the failure to meet the standard of care relative to the diagnosis and treatment of a 71 year old patient with an MI. Dr. Jalota has several malpractice matters that involving failure to diagnose, failure to diagnose resulting in the death of a patient and failure to order appropriate medication resulting in the death of a patient. Dr. Rosen made a motion to grant Dr. Jalota a license and Dr. Beckford seconded the motion. The motion passed. Dr. Baron, Mrs. Eller and Mrs. Webster opposed.

Regina King, MDX- Ms. King is applying for a Medical X-ray Operator license. Ms. King's answered "no" to question 7 on her application when asked "have you ever been convicted of a felony or a misdemeanor other than a minor traffic violation". Documentation obtained during the application process indicated that Ms. King has several misdemeanor convictions. The Board's consultant recommended that the Board withhold issuance of license until a new, truthful application is received in the administrative office. Dr. Beckford made a motion to accept the recommendations and Dr. Ali seconded the motion. Ms. King withdrew her application.

James C. Lathrop, MD- Dr. Lathrop is applying for a Medical license to practice in Tennessee. Dr. Lathrop was arrested in 2005 and subsequently pled guilty to misdemeanor reckless driving. Dr. Lathrop answered No to question 8 on the licensure application asking "have you ever been convicted of a misdemeanor other than a minor traffic offense". The Board's consultant recommended Dr. Lathrop submit a corrected application. Dr. Ali made a motion to grant Dr. Lathrop a license and also accept the Board's consultant recommendation. Dr. White seconded the motion. The motion passed.

Cynthia Lucius, MDX- Ms. Lucius is applying for a Medical X-ray Operator license to practice in Tennessee. Ms. Lucius indicated on questions 5 and 6 of her application that she had several convictions for charges which include theft in 2003 and child neglect in 2005. Dr. Ali made a motion to grant Ms. Lucius a license and Dr. Zanolli seconded the motion. The motion carried.

Mary. M Powell, MD- Dr. Powell is applying for a Medical license to practice in Tennessee. Dr. Powell's medical license was placed on probation in Georgia in 2004 for inappropriate prescribing and medical records problems. Dr. Powell was required to successfully complete a mini residency entitled "Appropriate Prescribing of Controlled Substances". Dr. Powell's probation was modified in 2006 and lifted in 2009. Dr. Ali made a motion to grant Dr. Powell a license and Dr. Rosen seconded the motion. The motion passed.

Sailaja Raju, MD- Dr. Raju is applying for a Medical license to practice medicine in Tennessee. Dr. Raju has attempted Step 3 of the USMLE five times. Dr. Raju is outside of the Board's one point rule and she is not board certified. Dr. Raju recently completed her residency program and she needs a medical license in order to take the board specialty exam. Dr. White made a motion to waive the one point rule and grant Dr. Raju a license. Dr. Rosen seconded the motion. The motion passed.

Jonathan J. Stein, MD- Dr. Stein is applying for a Locum Tenens Medical license to practice in Tennessee. Dr. Stein has a prior board order with the Louisiana Medical Board since February 16, 2009. The board order prohibits Dr. Stein from performing any invasive cardiology procedures, including diagnostic angiography, interventional vascular and interventional cardiology procedures. Dr. Stein can not perform procedures of inserting cardiac pacemakers or implantable cardiac defibrillators. The Mississippi Medical Board mirrored the same action as the Louisiana Medical Board against Dr. Stein's Mississippi medical license. Dr. Stein has a history of an acoustic neuroma in 1991 and a frontal lobe astrocytoma surgically removed in 1994. Dr. Stein submitted two conflicting neuropsychological reports. Dr. Stein had three (3) malpractice payments totaling \$ 240,000.00. Dr. Beckford made a motion to grant Dr. Stein a license and the

Tennessee license will mirror the prior board order in Louisiana. Dr Baron seconded the motion. The motion passed.

Gregory Thompson, MD- Dr. Thompson is applying to reinstate his Tennessee Medical license that went failed to renew on September 30, 2010. Dr. Thompson's reinstatement application indicates that he has not practiced in a clinical setting since 2002. Dr. White made a motion grant Dr. Thompson a license and Dr. Lovelady seconded the motion. The motion passed. Dr. Baron opposed.

Karen Weatherly-Ms. Weatherly is applying for a license to practice as a medical x-ray operator. Ms. Weatherly was not present and the Board deferred action on the application until the next meeting.

Discussion

The Board discussed the changes in reporting requirements to the National Practitioner Databank (NPDB) and whether the change might be construed in such a manner that would require the Board to begin reporting application withdrawals. Ms. Huddleston opined that since there is no disciplinary action regarding the withdrawal of an application, no report would be necessary.

CME Policy: The Board discussed the amended Medical X-ray Operators CME policy to read as follow:

"A Limited Scope X-ray Operator licensed in Tennessee is required to complete twenty (20) hours of continuing medical education biennially. The due date for proof of attendance and completion of the required continuing education hours is each certification holder's biennial renewal due date. (See Tenn. Comp. R. & Regs. 0880-5-.09 regarding continuing education requirements.)

Should the x-ray operator fail to obtain the continuing education hours for a calendar year, the following shall occur:

1. The x-ray operator must pay a civil penalty in the amount of twenty dollars (\$20.00) for each hour of missed. Payment must be rendered within sixty days of notification from the Board that the x-ray operator has been found to have failed to obtain the required continuing education hours.
2. The x-ray operator must make up the amount of continuing education hours that he/she is lacking, in addition to completing the continuing education hours requirement for the current year. The deficient hours must be made up within one hundred eighty (180) days of receipt of this policy. Documented proof of the deficient hours obtained must be submitted to the Board upon completion.
3. The x-ray operator must complete an additional ten (10) continuing education hours. This requirement is in addition to the requirement that the x-ray operator make up the continuing education hours that he/she is lacking, and in addition to the continuing education hours requirement for the current year. The ten (10) hours must be made up within two years of receipt of this policy. Documented proof of completion of the deficient hours must be submitted to the Board upon completion.

Failure to comply with this policy may result in disciplinary action. Failure to respond to the Board request for documentation or to make up deficient continuing education hours after notification by the Board may also result in disciplinary action.”

Dr. Ali made a motion to accept the amended policy as written, removing the word “calendar”. Dr. Rosen seconded the motion. The motion passed.

Advisory Opinion: The Board considered the request for an advisory opinion from Robert Schumacher, MD of Lebonheur Pediatric Sleep Disorders Center. Dr. Schumacher asked if polysomnography technologists are permitted to perform morning blood capillary gas tests on sleep center patients. After a discussion, the Board opined that the tests could be performed (not interpreted) by well trained and qualified polysomnography technologists.

Reports

Financial Report

The financial report was reviewed by the Board. Ms. Otto stated that at the end of the FY 2011 the Board had a surplus of \$ 747,510.00 add to the carryover in the amount of \$851,000.00 bringing the total to \$1.5 million.

Statistical Report from Administrative Office

The total number of physicians with active licenses as of August 31, 2011 is 20,617.

Investigation Report

Ms. Denise Moran was present to discuss the report from the Office of Investigations. There are currently two hundred forty-three (243) open complaints in the Office of Investigations relative to medical doctors and one (1) relative to an MD X-ray Operator.

Disciplinary Report

Ms. Denise Moran was presented to discuss the report from the Disciplinary Coordinator. There are currently two hundred sixty-five 265 medical doctors being monitored.

Dr. Zanolli asked Ms. Moran for more detailed report on the collection of cast cost fees and civil penalty fees for the next meeting.

OGC Report

Ms. Huddleston gave a brief update on the status of the rules. Ms. Huddleston informed the Board that as of June 30, 2011, there are two hundred forty-eight (248) disciplinary complaints pending in the office of General Counsel.

Ms. Huddleston informed the Board that there are eight (8) pending appeals from Board action, involving seven (7) physicians and one (1) pharmacist. The most recent action is the filling of an appeal by Dr. Richard Feldman v. BME (No. 08-197-I Davidson Chancery).

Ms. Huddleston introduced three (3) new attorneys Bryan Sims, Chris Smith and Jennifer Putnam.

Rules

Seven Year Rule Extensions-0880-02-.08(4)(e)-- The current rule refers to a statutory provision which expired on May 24, 2009. This provision was replaced by another provision which in turn will expire on June 30, 2013. To avoid the need to continually revise the rule in an attempt to follow statutory changes, OGC is working on a draft that will simply state that there will be no extensions of the rule except as may be provided by Tenn. Code Ann. §63-6-207, or in other Rules such as 0880-.02-.08(4)(d)(the M.D./Ph.D. exception).

International Medical School Graduates-0880-02-.04—The current rule 0880-02-.04(3)(f) provides that if the curriculum of the applicant's medical school does not meet certain requirements, "the applicant cannot obtain a license in Tennessee". Counsel was informed that the Board has expressed a desire to retain some flexibility on whether the curriculum of the applicant's school was "acceptable" in the case of applicants who have obtained board certification. Proposed language is to "deem" the curriculum acceptable if the applicant has passed all three steps of the USMLE within seven years of completions of whichever step of the examination was completed first and on the first attempt, has been board certified by an ABMS recognized board, and appears for a personal interview.

Legislation

Mr. John Bennett appeared in person to discuss a proposed legislation to create a Statute of Limitations. The revised proposed amendment would allow no disciplinary action to be initiated against a licensee for more than five (5) years from the date on which the alleged violation occurred, except where there is fraudulent concealment on the part of the licensee. In the event, that multiple violations are, or a continuing violation has allegedly occurred on more than one (1) date, then the disciplinary action of alleged violations must be filed within five(5) years of the on which the most recent violation occurred. However this does not apply to any alleged violations regarding criminal convictions that constitute grounds for discipline or any disciplinary action taken by another state or territory of the United States. The Board discussed the proposed revised amendment SB2073/HB 2122. Dr. Higdon made a motion that the Board should oppose the amended legislation. Dr. Rosen seconded the motion. The motion passed unanimously.

Agreed Citations

Mohamed Z. Knefati, MD-Dr. Knefati failed to complete the required continuing medical education for 2008 and 2009. Dr. Knefati agreed to pay a civil penalty in the amount of four hundred dollars (\$400), complete ten (10) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of approval of the Agreed Citation. Dr. White made a motion to approve the Agreed Citation and Dr. Beckford seconded the motion. The motion passed.

Paula Gray, MD X-ray Op. - Ms. Gray failed to complete the required continuing medical education for 2008 and 2009. Ms. Gray agreed to pay a civil penalty in the amount of two hundred dollars (\$200), complete ten (10) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours of continuing education hours within two (2) years of approval of the Agreed Citation. Dr. Zanolli made a motion to approve the Agreed Citation and Mrs. Eller seconded the motion. The motion passed.

September 20, 2011

Iris Room

Consent Orders

Panel: Ali, Webster, Yeiser, Lovelady, Rosen and Higdon

Todd V. Robinson, MD- Dr. Robinson was neither present nor represented by legal counsel. Ms. Jennifer Putnam represented the Department of Health. Dr. Robinson failed to complete the required continuing medical education 2008 and 2009. Dr. Robinson agreed to pay a civil penalty in the amount of sixteen hundred dollars (\$1600), complete ten (10) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of approval of the Agreed Citation. Dr. Lovelady made a motion to approve the Agreed Citation and Ms. Webster seconded the motion. The motion passed.

Joy Vest, MDX- Ms. Vest was neither present nor represented by legal counsel. Ms. Jennifer Putnam represented the Department of Health. Ms. Vest failed to complete the required continuing medical education for 2008 and 2009. Ms. Vest agreed to pay a civil penalty in the amount of four hundred dollars (\$400), complete ten (10) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours of continuing education hours within two (2) years of approval of the Agreed Citation. Mrs. Yeiser made a motion to approve the Agreed Citation and Mrs. Webster seconded the motion. The motion passed.

Robert W. Osteen, MD- Dr. Osteen was neither present but represented by Ben Mezer legal counsel. Chris Smith represented the Department of Health. Dr. Osteen entered prior agreed order on November 3, 2009 where he admitted to diverting fentanyl for his on personal use and altering a narcotic count sheet in an effort to conceal the diversion. Dr. Osteen was placed on probation for a period of not less than five (5) years, during which he was required to maintain good and lawful conduct and to obtain and maintain the advocacy of the Tennessee Medical Foundation (TMF) through 100% compliance with TMF. On July 29, 2011 Dr. Osteen tested positive for fentanyl, TMF withdrew its advocacy on August 11, 2011. The State showed that Dr. Osteen violated Tenn. Codes. Ann. §63-6-214(b)(2) and (5). Dr. Osteen neither admitted nor denied the allegations and Dr. Osteen desired to discontinue the practice of medicine. At this time Dr. Osteen desired to voluntarily surrender his Tennessee medical license, with understanding that this action has the same effect as a revocation. The panel made a motion to accept the consent order and the motion was passed.

Brian Collier, MD- Dr. Collier was neither present nor represented by legal counsel. Ms. Kyonte' Hughes- Toombs represented the Department of Health. Dr. Collier chose to treat his wife for depression after the death of their five-year-old son, instead of sending her to another provider. Dr. Collier prescribed scheduled III and IV medications such as Alprazolam, Lorazepam and Hydrocodone Bitartrate to his wife for approximately five years. Additionally, in or around December 2009, Dr. Collier ordered three bottles of 100 Alprazolam each and three bottles of 100 Ambien from a prescription medication wholesaler. Dr. Collier planned to dispense these medications to his wife. Dr. Collier did not maintain appropriate medical records for his wife nor did he maintain a record of the medications that he dispensed to her. Dr. Collier is currently under a two-year monitoring agreement with the Drug Enforcement Agency (DEA) and under this agreement the DEA will monitor his prescribing on a quarterly basis. Dr. Collier attended and completed a continuing medical education course entitled "Prescribing Controlled

Drugs; Critical issues and Common Pitfalls” at the Center for Professional Health at Vanderbilt university Medical Center. Dr. Collier agrees that his license is hereby reprimanded and will maintain good and lawful conduct, and not violate any municipal ordinance or nay law or rule of the State of Tennessee or any other state, or of the United States. Dr. Collier must pay one (1) type A civil penalty, in the amount of one thousand dollars (\$1,000.00) for inappropriate prescribing to his wife and the maximum amount for the assessment of cost of five thousand dollars (\$ 5,000.00) within twenty-four months of the effective date of this order. Dr. Collier also understands that this is a formal disciplinary action and will be reported to the Health integrity and Protection Data Bank (H.I.P.D.B) and/ or similar agency. Dr. Lovelady made a motion to accept the consent order and Mrs. Webster seconded the motion. The motion passed.

David Crawford, MD- Dr. Crawford was neither present nor represented by legal counsel. Ms. Kyonte’ Hughes- Toombs represented the Department of Health. Dr. Crawford was convicted on or around May 22, 2008, in Black Rock, Arkansas for driving while under the influence. Dr. Crawford did not report this conviction on his 2010 renewal application. Dr. Crawford agrees that his license is hereby reprimanded and shall pay two (2) Type B civil penalties in the amount of two hundred and fifty dollars (\$250.00) for each violation and the maximum amount for the assessment of three thousand dollars (\$ 3,000.00). Dr. Crawford also understands that this is a formal disciplinary action and will be reported to the Health integrity and Protection Data Bank (H.I.P.D.B) and/ or similar agency. Mrs. Yeiser made a motion to accept the consent order and Mrs. Webster seconded the motion. The motion passed.

Gary Hayes, MD- Dr. Hayes was neither present nor represented by legal counsel. Ms. Kyonte’ Hughes- Toombs represented the Department of Health. Dr. Hayes had three (3) patients AR., LD., and NG files were reviewed by The Department of Health’s investigator, which uncovered inappropriate prescribing of controlled substances. Dr. Hayes’s actions/omissions constitute violations of TENN. CODE ANN. § 63-6-214 (b)(1); §63-6-214(b)(12) and TENN. R & REGS. 0880-2-.14(7)(a) and 0880-2-.14(6)(e)(3). Dr. Hayes license is placed on Probation, effective the date of entry of this order for a period of no less than five (5) years. Dr. Hayes must petition for an Order of Compliance for the Probation must comply with the following Conditions of Probation:

1. Record keeping course. Respondent shall attend and complete a record keeping course at his own expense, and provide proof of attendance to the Board’s Disciplinary Coordinator and Medical Director within thirty (30) days of completing the course. Respondent must have the course approved by the Board’s medical consultant prior to taking the course.
2. Prescribing course. Respondent shall attend and complete a prescribing course related to prescribing for pediatric patients at his own expense, and provide proof of attendance to the Board’s Disciplinary Coordinator and Medical Director within thirty (30) days of completing the course. Respondent must have the course approved by the Board’s Medical Director prior to taking the course.
3. Monitoring Agreement: Within forth-five (45) days of the entry of this Order, Respondent shall obtain a practice monitoring agreement with an entity to be approved by the Board’s Medical Director. Respondent’s monitoring agreement shall include the following:
 - a. Monitoring shall consist of quarterly reviews for the first two years of Respondent’s probationary period, with additional reviews and reports to be done if necessary in the judgment of the monitor or if requested by the

Board's Medical Director. An annual review will be due for the remainder of Respondent's probationary period.

b. The monitor shall review a minimum of five (5) and a maximum of ten (10) charts of patients who received chronic pain treatment or treatment with other controlled substances during the immediately preceding six (6) months. These charts will be selected by the monitor based upon review of Respondent's Controlled Substance Monitoring Database (hereinafter "CSMD") report. The monitor will review the charts for compliance with the requirements of applicable law and the accepted standards of medical practice.

c. A report of the monitor's review of Respondent's medical records and prescribing shall be transmitted within thirty (30) days of completion to: **Tennessee Board of Medical Examiners, Attn: Medical Director, 227 French Landing, Suite 300, Heritage Place Metro Center, Nashville, Tennessee, 37243.** The report should address Respondent's documentation of appropriate physical examinations and histories, diagnostic testing, and use of alternative, non-narcotic modalities, as well as Respondent's use of prior medical records and drug screens and response to evidence of abuse or diversion when prescribing to his patients. The report should also address the appropriateness of any medications prescribed to pediatric patients.

d. Dr. Hayes is responsible for all fees associated with this monitoring and is responsible for ensuring compliance with the terms of this monitoring.

e. Dr. Hayes shall maintain a monitoring agreement for Respondent's entire probationary period.

4. Good conduct. Dr. Hayes will maintain good and lawful conduct, and not violate any municipal ordinance or any law or rule of the State of Tennessee or any other state, or of the United States.

Dr. Hayes must pay four (4) Type A civil penalties, in the amount of one thousand dollars (\$1,000) each, for a total assessment of four thousand dollars (\$4,000), representing each year in which the Respondent inappropriately prescribed narcotics to AR. Additionally, Respondent must pay five (5) Type A civil penalties, in the amount of one thousand dollars (\$1,000) each, for a total assessment of five thousand dollars (\$5,000), representing each year in which the Respondent inappropriately prescribed narcotics to LD. Furthermore, Respondent must pay seven (7) Type A civil penalties, in the amount of one thousand dollars (\$1,000) each, for a total assessment of seven thousand dollars (\$7,000), representing each year in which the Respondent inappropriately prescribed narcotics to N.G. Dr. Hayes total assessment for all three patients is sixteen thousand dollars (\$16,000). Any and all civil penalties may be paid in monthly installments. However, any and all civil penalties must be paid prior to the lifting of the Respondent's probationary period. Payments shall begin within sixty (60) days of the effective date of this Consent Order. Dr. Hayes shall pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-2-.12(1)(j) of the Official Compilation Rules and Regulations of the State of Tennessee, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed by the Office of Investigations, Secretary of State, Administrative Procedures Division as well as the Office of General Counsel. These costs will be established by an Affidavit of Costs prepared and filed by counsel for the Department. The maximum amount

for the assessment of costs shall be fifteen thousand dollars (\$15,000.00). Dr. Hayes understands that this is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (H.I.P.D.B.) and/or similar agency. Ms. Yeiser made a motion to accept this Consent Order and Dr. Higdon seconded the motion. The motion passed unanimously.

Warren Hill, MD-Dr. Hill was not present but was represented by Ben Mezer legal counsel. Ms. Kyonte' Hughes- Toombs represented the Department of Health. Dr. Hill principally co-owns and operates an Urgent Care and Diagnostic Center in Goodlettsville, Tennessee. The Department of Health's investigator reviewed sixteen (16) patient records and during the review Dr. Hill admitted to the investigator that he was a poor records keeper. Dr. Hill agreed to voluntarily surrender his Tennessee Medical License, which will be effective 45 days from the date of the order when approved by the Board. Dr. Hill will also surrender his DEA certificate as of the effective date of this Order. Dr. Hill must pay the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed by the Office of Investigations, Secretary of State, Administrative Procedures Division and the Office of General Counsel, pursuant to T.C.A. § 63-6-214(k) and Rule 0880-2-.12(1)(j) of the Official Compilation Rules and Regulations of the State of Tennessee. These costs will be established by an Affidavit of Cost prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be ten thousand (\$10,000.00) dollars. Dr. Hill understands that this is a formal disciplinary action and will be reported to the Health integrity and Protection Data Bank (H.I.P.D.B.) and/or similar agencies. Any and all costs shall be paid in full within thirty (30) days from the issuance of the Affidavit of costs. Ms. Webster made a motion to accept the consent order and Dr. Rosen seconded. The motion passed unanimously.

Orders of Compliance

Ralph Reach, MD- Dr. Reach was present. Dr. Reach was issued a conditional license by the Board on August 22, 2006. That conditional license was placed on probation for a period of five years and required to enter into a lifetime contract with Tennessee Medical Foundation. Ms. Huddleston stated that Dr. Reach has met all requirements of the previous Agreed Order. Dr. Rosen made a motion to approve the Order of Compliance and Ms. Webster seconded the motion. The motion passed.

September 20, 2011

Poplar Room

Panel: Eller, Baron, Mutter, White, Beckford and Zanolli

Orders Of Compliance

Brad Blankenship, MD-Dr. Blankenship was not present but was represented by legal counsel Robert Kraemer. Dr. Blankenship filed an Order of Compliance in regards to the disciplinary Consent Order issued by the Board on September 15, 2009. Ms. Huddleston stated that Dr. Blankenship has met all requirements of the Consent Order. Dr. White made a motion to approve the Order of Compliance and Dr. Beckford seconded the motion. The motion passed.

John Byrnes, MD-Dr. Byrnes was not present nor represented by legal counsel. Dr. Byrnes filed an Order of Compliance in regards to the Consent Order issued by the Board on May 17, 2006. Dr. Byrnes medical license was placed on probation for a period of five years and he was required to obtain and maintain a lifetime monitoring contract with the Tennessee Medical Foundation. Dr.

Byrnes must also submit to an evaluation by the center for Professional Excellence, and attend and complete a seminar entitled Prescribing Controlled Drugs: Critical Issues and Common Pitfalls. Ms. Huddleston stated that Dr. Byrnes has met all requirements of the Consent Order. Dr. White made a motion to approve the Order of Compliance and Dr. Zanolli seconded the motion. The motion passed.

James Ellis Jr., MD-Dr. Ellis was not present nor represented by legal counsel. Dr. Ellis entered into a Consent Order on May 19, 2009 which placed his license on probation for a period of one year for the duration of his Tennessee Medical Foundation (TMF) contract. Dr. Ellis was ordered to undergo an evaluation by the Vanderbilt Comprehensive Assessment Program, obtain and maintain a monitoring contract with TMF, and also attending and completing an Intensive course in Medical Record Keeping with individual preceptorships and prescribing controlled drugs. Ms. Huddleston stated that Dr. Ellis has met all requirements of the Consent Order. Dr. White made a motion to approve the Order of Compliance and Dr. Baron seconded the motion. The motion passed.

Cyrus Erickson III, MD-Dr. Erickson, III was not present nor represented by legal counsel. Dr. Erickson entered into a Consent Order on July 20, 2010 which suspended his license for a period of ninety days. Dr. Erickson was required to obtain and maintain a monitoring contract with the Tennessee Medical Foundation (TMF) for a period no less than five years. Dr. Erickson's previous consent order also stated that upon obtaining an order of compliance, his medical license will be placed on probation for a period not less than five years and /or until all costs are paid and maintain compliance with the five year TMF monitoring contract. Ms. Huddleston stated that Dr. Erickson has met all requirements of the Consent Order. Dr. White made a motion to approve the Order of Compliance and Ms. Eller seconded the motion. The motion passed.

Daniel Garner, MD-Dr. Garner was not present nor represented by legal counsel. Dr. Garner entered into a Consent Order on September 15, 2009 which placed his license on probation for two years. Ms. Huddleston stated that Dr. Garner has met all requirements of the Consent Order. Dr. White made a motion to approve the Order of Compliance and Dr. Baron seconded the motion. The motion passed.

Michael Okumura, MD-Dr. Okumura agreed to a conditional license issued by the Board on April 7, 2006. The conditional license required him to obtain and maintain advocacy with Tennessee Medical Foundation for five years. Ms. Huddleston stated that Dr. Okumura has met all requirements of the condition as set by the Board. Dr. White made a motion to approve the Order of Compliance and Dr. Baron seconded the motion. The motion passed.

Howard Pomeroy, MD-Dr. Pomeroy was not present nor represented by legal counsel. Dr. Pomeroy entered into a Consent Order issued by the Board July 25, 2006. Dr. Pomeroy's license was placed on probation for five years, requiring him to obtain and maintain a lifetime monitoring contract with Tennessee Medical Foundation. Dr. Pomeroy must also complete the Vanderbilt Comprehensive Assessment Program and Professionals; Complete the Prescribing Controlled Drugs and Maintaining Proper Boundaries courses and also complete eight hours of Continuing Medical Education coursework in patient charting and documentation. Ms. Huddleston stated that Dr. Pomeroy has met all requirements of the probation as set by the Board. Dr. White made a motion to approve the Order of Compliance and Dr. Beckford seconded the motion. Dr. Baron recused himself. The motion passed.

Consent Orders

Meyer L. Proler, MD-Dr. Proler was neither present nor represented by legal counsel. Dr. Proler was granted a Tennessee medical license by the Board on December 1, 1997, with a current expiration date of July 31, 2013. Dr. Proler also holds a license to practice medicine in Alabama, Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. On February 4, 2011, The Texas Medical Board issued a mediated Agreed Order regarding Dr. Proler's License to practice medicine in Texas. The Mediated Agreed Order resolved a formal complaint pending before the Texas Office of Administrative Hearings. The Texas order contained factual findings which included: Dr. Proler, who is 74 years old, is primarily engaged in the practice of neurophysiology and also included in his practice was the supervision and interpretation of electromyography (EMG) studies through telemedicine. Dr. Proler's general practice was with several monitors for observations while the patient was located remotely in a different physician's office, accompanied by a technician; the technician would place the needles and interact with the patient and Dr. Proler would read the test and assure proper needle placement via the monitors. The Texas Medical Board concluded that Dr. Proler violated the standard of care by supervising the performance of clinical diagnostic EMG studies through telemedicine and through clinical and through his clinical diagnostic interpretations of EMG studies that had been performed by other providers and sent to him for interpretation; he violated the standard of care in regard to four (4) patients for whom he performed and/or interpreted EMG studies by not being onsite with the patient to supervise the technicians performing the study. The Texas Medical Board also found that the actions of Dr. Proler constituted unprofessional or dishonorable conduct. Dr. Proler no longer supervises the performance of EMG studies through telemedicine, and no longer interprets EMG's performed by other providers for clinical purposes. Based on the findings the Texas Medical Board issued a disciplinary order in the form of an administrative penalty in the amount of one thousand dollars (\$1,000.00). Dr. Proler has violated the following statutes or rules which are part of the Tennessee Medical Practice Act, TENN. CODE ANN. § 63-6-101. Dr. Proler's actions/omissions constitute unprofessional conduct, pursuant to TENN. CODE ANN. § 63-6-214 (b) (1), which reads "Unprofessional, dishonorable or unethical conduct." and also Dr. Proler's actions/omissions constitutes grounds for discipline pursuant to TENN. CODE ANN. § 63-6-214 (b) (20) which reads "Disciplinary action against a person licensed to practice medicine in another state or territory of the United States for any acts or omissions that would constitute grounds for discipline of a person licensed in the state. A certified copy of the initial or final order or other equivalent documentation memorializing the disciplinary action from the disciplining state or territory shall constitute prima facie evidence of violation of this section and be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a person licensed in this state".

Dr. Proler is assessed one (1) Type "A" Civil Penalties in the amount of one thousand dollars (\$1,000.00), representing the violation of the Practice Act. Dr. Zanolli made a motion to reject the consent order and Dr. Baron seconded the motion.

Edward L. Mosley, MD- Dr. Mosley was neither present nor represented by legal counsel. Dr. Mosley was issued a license to practice medicine in the Commonwealth of Virginia on April 28, 2005. On January 21, 2011, an Order was entered against Dr. Mosley before the Commonwealth of Virginia Board of Medicine which reprimanded Dr. Mosley's license for violations of the Virginia Code. Dr. Mosley's medical license was reprimanded based on findings during the performance of a laparoscopic cholecystectomy on a patient, the duodenum was perforated and Dr. Mosley failed to recognize and repair the injury resulting in the patients' death due to this

injury. The reprimand of Dr. Mosley's medical license in Virginia constitutes a violation of TENN. CODE ANN. § 63-6-214(b)(1), which gives authority to discipline a licensee for unprofessional conduct and a violation of TENN. CODE ANN § 63-6-214(b)(20), which gives authority to discipline a licensee for disciplinary action in another state for actions that would constitute a violation in Tennessee. Dr. Mosley must pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-2-.12(1)(j) of the Official Compilation Rules and Regulations of the State of Tennessee, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed by the Office of Investigations, Secretary of State, Administrative Procedures Division as well as the Office of General Counsel. These costs will be established by an Affidavit of Costs prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be five hundred dollars (\$500.00). This **REPRIMAND** is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (HIPDB) and/or similar agency. Dr. Zanolli made a motion to approve the Reprimand and Dr. Beckford seconded the motion. The motion passed.

Neal Chamberlain, MD- was not present but was represented by legal counsel Robert Kraemer. Brian Simms represented the Department of Health. Dr. Chamberlain was employed by Middle Tennessee Urology Associates in Columbia Tennessee from September 2006 until he broke his hip and punctured his lung on December 19, 2009, at which time he retired from the practice. Since December 19, 2009, Dr. Chamberlain has prescribed controlled substances such as: Propoxyphene, Napsylate, Acetaminophen, and Phentermine Hydrochloride for seven (7) patients, without maintaining medical records for said patients. From at least June 18, 2009 through at least June 9, 2010, Dr. Chamberlain has been self prescribing controlled substances. Dr. Chamberlain's self prescribing of controlled substances included the following prescriptions for Androgel, Triazolam, Acetaminophen with Codeine and Testosterone Cypionate. Dr. Chamberlain's Tennessee Medical License is hereby immediately placed upon **PROBATION** for a period of not less than three (3) years and until he has completed the following requirements: Dr. Chamberlain shall undergo an evaluation by the Vanderbilt Comprehensive Assessment Program ("VCAP") or another program preapproved by the Board's Consultant within six (6) months of the entry of this Order; Dr. Chamberlain shall cause a copy of the VCAP assessment to be forwarded to the Board's Consultant by VCAP; Dr. Chamberlain shall comply with all recommendations of VCAP. If VCAP recommends that he undergo mental or physical treatment then Dr. Chamberlain shall request the provider of that treatment to send a report to the Board's Consultant documenting he is compliance with the VCAP recommendation as well as his fitness to practice medicine. If the treatment is ongoing in nature then Dr. Chamberlain shall cause his provider to submit quarterly reports documenting his compliance with the VCAP recommendations as well as his fitness to practice medicine. During the period of Probation Dr. Chamberlain shall maintain good and lawful conduct and any violation of law will be a violation of the terms of this Order. Dr. Chamberlain must pay eight (8) Type "A" Civil Penalties in the amount of one thousand dollars (\$1,000.00) each, for a total of eight thousand dollars (\$8,000.00), representing each of the patients and the self prescribing. Dr. Chamberlain must petition for an Order of Compliance for the Probation on Respondent's license to be lifted. This **REPRIMAND** is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (HIPDB) and/or similar agency. Dr. Baron made a motion to approve the Consent Order and Ms. Eller seconded the motion. The motion passed. Dr(s). Beckford, White and Mutter recused themselves.

Lawson McNary, MD- Dr. McNary was not present nor represented by legal counsel. Anthony Czerniak represented the Department of Health. Dr. McNary was issued a license to practice medicine in the Commonwealth of Kentucky. On September 2, 2010 an Agreed Order was entered against Dr. McNary's Kentucky license for violations of the Kentucky Code. Dr. McNary's medical license was reprimanded based on findings that while on call to cover the emergency room he consumed an alcoholic beverage during lunch. After lunch Dr. McNary

poured the remaining alcoholic beverage into a Sprite soft drink bottle, drove back to the hospital and brought the container into the hospital facility. Dr. McNary entered the hospital and dropped the container and the alcoholic beverage spilled on the floor. Afterwards Dr. McNary treated one patient that needed a minor procedure which required a local anesthetic. Dr. McNary's hospital privileges were immediately suspended pending an evaluation by the Kentucky Physicians Health Foundation. Dr. McNary entered into a one year contract with the Foundation and his medical license was reprimanded by the Kentucky Board. On January 26, 2011 an Order of Refusal to renew was entered by the State of Illinois Department of Financial and Professional Regulation due to the discipline of Dr. McNary's Kentucky license. Dr. McNary agrees to the reprimand and must abide by and complete all requirements for the Commonwealth of Kentucky agreed order dated September 2, 2010. This **REPRIMAND** is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (HIPDB) and/or similar agency. Dr. White made a motion to approve the Consent Order and Dr. Zanolli seconded the motion. The motion passed.

September 21, 2011

Iris Room

Panel: Higdon, Zanolli and Eller

Contested Case Hearing

Charles Anderson, MD-Dr. Anderson was present and represented by attorney, Mark Freeman. Ms. Andrea Huddleston represented the Tennessee Department of Health. Tom Stovall, Administrative Law Judge presided. The matter began with opening statements and the beginning of the state's case in chief. The matter will be continued from meeting to meeting until completed.

Adjourned at 4:30 p.m.

These minutes were ratified by the Board on January 11, 2012 and amended by the Board on July 24, 2012.